

AMENDED IN ASSEMBLY MARCH 17, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 964

Introduced by Assembly Member Huffman

February 18, 2011

~~An act to amend Section 25507 of, and to add Section 5420 to, the Health and Safety Code, and to add Sections 5898.15, 5898.23, and 5899.1 to the Streets and Highways Code, relating to environmental protection. An act to add Section 13481.6 to the Water Code, relating to water pollution.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as amended, Huffman. ~~Environmental protection: contamination.~~ *State Water Pollution Control Revolving Fund: onsite sewer improvement projects.*

Existing law continuously appropriates state and federal funds in the State Water Pollution Control Revolving Fund to the State Water Resources Control Board to provide financial assistance for the construction of publicly owned treatment works by a municipality, the implementation of a specified management program, the development and implementation of a specified conservation and management plan, and other related purposes in accordance with the federal Clean Water Act and the state Porter-Cologne Water Quality Control Act.

This bill would require financial assistance provided from the fund for onsite sewer improvements, as defined, to be provided only for projects for which a public agency has adopted a sewer system management plan, as defined, that includes a prescribed 10-year plan for sewer upgrades. The bill, commencing January 1, 2014, would require a public agency receiving financial assistance from the fund

for that purpose to report to the board on its progress with respect to developing and implementing a 10-year plan for sewer upgrades.

The bill also would make legislative findings and declarations related to water quality and financing onsite sewer system improvements.

~~(1) Existing law prohibits the discharge of sewage or other waste, or the effluent of treated sewage or other waste, in any manner that will result in contamination, pollution, or a nuisance. Under existing law, when the State Department of Public Health or any local health officer finds that a contamination exists, the department or officer is required to order the contamination abated, as provided.~~

~~Under existing law, an owner or reputed owner of property included within an assessment district for construction of a main trunkline or collector sewer lines may request the governing board to construct all necessary plumbing to connect his or her property to the adjoining public sewer system, the cost of the which constitutes a lien on the property.~~

~~This bill would require the State Department of Public Health, in consultation with local health officers, to adopt, by January 1, 2013, and to thereafter implement a 10-year plan for sewer upgrades, including, but not limited to, onsite septic and sewer lateral upgrades.~~

~~(2) Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.~~

~~This bill would expand these provisions to include contractual assessments to finance onsite sewer and septic improvements, as defined. The bill would permit onsite sewer and septic improvements to be installed to convert residential, commercial, industrial, agricultural, or other real property from an onsite septic system to community sewer collection service and to modify or replace existing onsite sewer and septic improvements. The bill would also permit these assessments to be used to replace or upgrade an existing septic system if specified requirements are met. The bill would also prohibit a public agency from permitting a property owner to participate in a contractual assessment program if the total amount of assessments and taxes on the property exceeds 5% of the property's market value, as specified. The bill would require the preliminary report issued in connection with the contractual~~

assessment program to include criteria for determining the underwriting requirements, as well as safeguards to be used to limit the total annual property tax and assessments on the property, as specified.

(3) ~~By requiring local public health officers to perform the duties set forth in (1) above, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~yes~~*no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The frequency and size of sewage spills of raw or partially
- 4 treated sewage is often a result of aging sewer systems and a lack
- 5 of maintenance on leaky and dilapidated infrastructure.
- 6 (b) Sewage spills also occur due to rainstorms infiltrating and
- 7 overcoming poorly maintained or outdated systems.
- 8 (c) Sewage spills cause significant economic damage; they cause
- 9 fishery closures, hurt the tourism industry, create unsafe swimming
- 10 conditions, result in closed beaches, and cost ratepayers millions
- 11 of dollars annually to abate and clean up.
- 12 (d) Sewage spills result in significant contamination of the
- 13 environment. The state's waterways are part of critically important
- 14 ecosystems that support large numbers of birds, fish, and other
- 15 wildlife, including, but not limited to, many threatened and
- 16 endangered species. Sewage contamination threatens these
- 17 ecosystems when it escapes public sewer systems.
- 18 (e) Public agencies are often challenged with the high cost of
- 19 maintenance and repair of sewer lines, and often have limited
- 20 authority over private sewer lines that feed into public sewer
- 21 systems.

(f) Establishment of a 10-year plan to maintain and improve public and private sewer infrastructure will help prevent sewage spills caused by storm water intrusion into sewer collection systems.

SEC. 2. Section 13481.6 is added to the Water Code, to read:

13481.6. (a) The Legislature finds and declares all of the following:

(1) It is the intent of the Legislature to address water quality needs throughout California by permitting voluntary individual sewer improvements that provide a public benefit. The Legislature further intends that this chapter should be used to finance the installation of onsite sewer improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property, including installation of improvements to, and replacements of, existing onsite sewer facilities served by a community sewer system.

(2) To improve the quality of surface water and groundwater, necessary efforts include the promotion of onsite sewer improvements that provide a public benefit in preventing water quality degradation.

(3) The up-front cost of rehabilitating and replacing existing sewer laterals prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary for the board to give favorable consideration to an alternative procedure to finance the cost of onsite sewer improvements.

(4) A public purpose will be served by a locally-administered low cost loan program that provides the legislative body of a public agency with the authority to finance the installation of onsite sewer improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Onsite sewer improvements" means permanent sewer improvements fixed to real property that convey sewage from the property's interior plumbing to the point of discharge into the public agency's sewer facilities, and may include, but is not limited to, pipes, pumps, other equipment, sewer laterals, or one-time charges for sewage treatment capacity associated with the

1 *improvements. Onsite sewer and improvements may be installed*
2 *to modify or replace existing onsite sewer improvements.*

3 (2) “Public agency” means a city, county, city and county,
4 municipal utility district, community services district, sanitary
5 district, sanitation district, or water district as defined in Section
6 20200.

7 (3) “Sewer system management plan” is a system-specific plan
8 that meets the requirements of the Statewide General Waste
9 Discharge Requirements for Sanitary Sewer Systems (Order No.
10 2006-0003-DWQ of the State Water Resources Control Board),
11 as that order may be amended.

12 (4) “Ten-year plan for sewer upgrades” means a plan that
13 includes, but need not be limited to, all of the following:

14 (A) An evaluation that identifies and prioritizes the areas where
15 onsite sewer improvements are needed in order to prevent, within
16 ten years, sanitary sewer overflows due to excessive infiltration
17 and inflow through cracked and leaking sewer laterals.

18 (B) Strategies for public outreach to private property owners
19 to make repairs to, or replacement of, as necessary, private sewers
20 laterals for the purpose of prevention or abatement of sewage
21 contamination. Outreach shall include, but shall not be limited to,
22 providing information about financing options. The information
23 shall address the possibility of loans between the property owners
24 and the agency.

25 (C) Guidelines for managing and accounting for funding made
26 available to property owners for the purposes of lateral repairs
27 or replacements. The guidelines may authorize the property owner
28 to purchase directly the related equipment and materials for the
29 installation of onsite sewer and septic improvements and to
30 contract directly for the installation of onsite sewer improvements
31 that are permanently fixed to the property owner’s residential,
32 commercial, industrial, agricultural, or other real property.

33 (c) Financial assistance provided from the fund for purposes
34 of onsite sewer improvements shall be provided only for projects
35 for which a public agency has adopted a sewer system management
36 plan that, in addition to other applicable requirements, includes
37 a ten-year plan for sewer upgrades.

38 (d) Commencing January 1, 2014, a public agency receiving
39 financial assistance in accordance with subdivision (c) shall report

1 *to the board on the progress of developing and implementing the*
2 *ten-year plan for sewer upgrades.*

3 ~~SEC. 2. Section 5420 is added to the Health and Safety Code,~~
4 ~~to read:~~

5 ~~5420. (a) The department, in consultation with local health~~
6 ~~officers, shall adopt, by January 1, 2013, and shall thereafter~~
7 ~~implement a 10-year plan for sewer upgrades, including, but not~~
8 ~~limited to, onsite septic and sewer lateral upgrades.~~

9 ~~(b) The plan shall include, but need not be limited to, all of the~~
10 ~~following:~~

11 ~~(1) Stated goals for the prevention and elimination of sewage~~
12 ~~spills caused by storm water intrusion.~~

13 ~~(2) Strategies for public outreach to private property owners to~~
14 ~~make repairs to, or replacement of, as necessary, private sewers~~
15 ~~laterals for the purpose of prevention or abatement of sewage~~
16 ~~contamination. Outreach shall include, but shall not be limited to,~~
17 ~~providing information about financing options. The information~~
18 ~~shall address the possibility of loans or voluntary assessments~~
19 ~~between the property owners and the agency.~~

20 ~~(3) Plans for managing and accounting for funding made~~
21 ~~available to property owners for the purposes of lateral repairs or~~
22 ~~replacements.~~

23 ~~(4) Commencing January 1, 2014, the department, in~~
24 ~~consultation with local health officers, shall report to the California~~
25 ~~Regional Water Quality Control Board, and to the regional boards,~~
26 ~~on the progress of developing the 10-year plan.~~

27 ~~SEC. 3. Section 25507 of the Health and Safety Code is~~
28 ~~amended to read:~~

29 ~~25507. (a) Except as provided in subdivision (c), the handler~~
30 ~~or any employee, authorized representative, agent, or designee of~~
31 ~~a handler shall, upon discovery, immediately report any release or~~
32 ~~threatened release of a hazardous material to the administering~~
33 ~~agency, and to the agency, in accordance with the regulations~~
34 ~~adopted pursuant to Section 25503. Each handler and any~~
35 ~~employee, authorized representative, agent, or designee of a handler~~
36 ~~shall provide all state, city, or county fire or public health or safety~~
37 ~~personnel and emergency rescue personnel with access to the~~
38 ~~handler's facilities.~~

39 ~~(b) Any handler or employee, authorized representative, agent,~~
40 ~~or designee of a handler that provides an initial immediate verbal~~

1 ~~report of a release or threatened release pursuant to subdivision~~
2 ~~(a), shall provide an immediate followup notification to the~~
3 ~~administering agency and to the office if any of the following~~
4 ~~conditions occur as a result of the release or threatened release that~~
5 ~~were not included in the prior notifications:~~

6 ~~(1) The specific name or identity of the hazardous material~~
7 ~~released.~~

8 ~~(2) The quantity of release is determined, or that the quantity~~
9 ~~has increased from prior reports by more than 100 percent.~~

10 ~~(3) An injury to one or more persons has been caused and~~
11 ~~requires immediate attention.~~

12 ~~(4) A death of one or more persons has been caused.~~

13 ~~(5) A public safety action has been ordered by emergency rescue~~
14 ~~personnel, including, but not limited to, evacuation or sheltering~~
15 ~~in place.~~

16 ~~(6) Environmental contamination that requires the deployment~~
17 ~~of response equipment to contain or limit the spread of the~~
18 ~~hazardous material.~~

19 ~~(e) This section does not apply to any person engaged in the~~
20 ~~transportation of a hazardous material on a highway which is~~
21 ~~subject to, and in compliance with, the requirements of Sections~~
22 ~~2453 and 23112.5 of the Vehicle Code.~~

23 ~~SEC. 4. Section 5898.15 is added to the Streets and Highways~~
24 ~~Code, to read:~~

25 ~~5898.15. (a) A public agency shall not permit a property owner~~
26 ~~to participate in any program established pursuant to this chapter~~
27 ~~if the owner's participation would result in the total amount of any~~
28 ~~annual property taxes and assessments exceeding 5 percent of the~~
29 ~~property's market value, as determined at the time of approval of~~
30 ~~the owner's contractual assessment.~~

31 ~~(b) This chapter shall not be construed to void or otherwise~~
32 ~~release a property owner from the contractual obligations incurred~~
33 ~~by a contractual assessment on a property, particularly in the event~~
34 ~~that the total amount of annual property taxes and assessments~~
35 ~~exceeds 5 percent of a property's market value after the property~~
36 ~~owner has entered into a contractual assessment pursuant to this~~
37 ~~chapter.~~

38 ~~SEC. 5. Section 5898.23 is added to the Streets and Highways~~
39 ~~Code, to read:~~

~~5898.23. For purposes of the report required pursuant to Section 5898.22, the statement of public agency policies required pursuant to subdivision (c) of that section shall also include a brief description of criteria for determining the underwriting requirements, as well as safeguards that will be used to ensure that the total annual property tax and assessments on the property will not exceed 5 percent of the property's market value, as determined at the time of approval for the owner's contractual assessment.~~

~~SEC. 6. Section 5899.1 is added to the Streets and Highways Code, to read:~~

~~5899.1. (a) The Legislature finds and declares all of the following:~~

~~(1) It is the intent of the Legislature to address water quality needs throughout California by permitting voluntary individual sewer and septic improvements that provide a public benefit. The Legislature further intends that this chapter should be used to finance the installation of onsite sewer and septic improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property, for the installation of improvements to, and replacements of, existing onsite sewer facilities served by a community sewer system, a septic system, and conversion of the property from a septic system to community sewer collection and treatment service.~~

~~(2) To improve the quality of surface water and groundwater, necessary efforts include the promotion of onsite sewer and septic improvements that provide a public benefit in water quality protection.~~

~~(3) The up-front cost of converting residential, commercial, industrial, agricultural, or other real property from an onsite septic system to sewer collection service, updating an existing septic system, or making needed improvements to, or replacements of, existing sewer laterals, prevents many property owners from making those improvements. To make those improvements more affordable and to promote the installation of those improvements, it is necessary to authorize an alternative procedure for authorizing assessments to finance the cost of onsite sewer and septic improvements.~~

~~(4) The Legislature declares that a public purpose will be served by a voluntary contractual assessment program that provides the legislative body of a public agency with the authority to finance~~

1 the installation of onsite sewer and septic improvements that are
2 permanently fixed to residential, commercial, industrial,
3 agricultural, or other real property.

4 (b) For purposes of this section, the following terms shall have
5 the following meanings:

6 (1) “Onsite sewer and septic improvements” means permanent
7 sewer and septic improvements fixed to real property that convey
8 sewage from the property’s interior plumbing to the point of
9 discharge into the public agency’s sewer facilities, and may
10 include, but is not limited to, pipes, pumps, other equipment, sewer
11 laterals, septic system abandonment, or one-time charges for
12 sewage treatment capacity associated with the improvements.
13 Onsite sewer and septic improvements may be installed for the
14 following purposes:

15 (A) To convert residential, commercial, industrial, agricultural,
16 or other real property from an onsite septic system to community
17 sewer collection service.

18 (B) To modify or replace existing onsite sewer improvements.

19 (2) “Onsite sewer and septic improvements” also means the
20 replacement of, or upgrade of, an existing septic system if all of
21 the following requirements are met:

22 (A) The public agency determines that the building served by
23 the septic system is not within the range of service of an existing
24 or planned public sewer.

25 (B) The replacement or upgrade of the existing septic system
26 satisfies all local requirements regarding pretreatment, effluent
27 meters or other devices to control solids releases, and emergency
28 capacity and malfunction alarming devices.

29 (3) For the purpose of financing the installation of onsite sewer
30 and septic improvements, “public agency” means a city, county,
31 city and county, municipal utility district, community services
32 district, sanitary district, sanitation district, or water district, as
33 defined in Section 20200 of the Water Code. The definition of
34 “city” in Section 5005 shall not apply to this paragraph.

35 (e) The legislative body of any public agency may designate an
36 area, in the manner provided pursuant to Section 5898.20, within
37 which authorized public agency officials and property owners may
38 enter into voluntary contractual assessments to finance the
39 installation of onsite sewer and septic improvements that are
40 permanently fixed to real property pursuant to this chapter.

1 ~~(d) For purposes of establishing a voluntary contractual~~
2 ~~assessment program relating to onsite sewer and septic~~
3 ~~improvements, the legislative body shall make the determinations~~
4 ~~required pursuant to Section 5898.20 by adopting a resolution~~
5 ~~indicating its intention to do so. The resolution of intention shall~~
6 ~~identify the kinds of onsite sewer and septic improvements that~~
7 ~~may be financed and shall include all of the information that is~~
8 ~~required pursuant to subdivision (b) of Section 5898.20, including,~~
9 ~~but not limited to, directing an appropriate public agency official~~
10 ~~to prepare a report pursuant to Section 5898.22.~~

11 ~~(e) For purposes of the report required pursuant to Section~~
12 ~~5898.22, relating to a voluntary contractual assessment program~~
13 ~~for onsite sewer and septic improvements, the designated public~~
14 ~~agency official shall satisfy the requirements of paragraph (1) of~~
15 ~~subdivision (e) of Section 5898.22 by identifying the types of~~
16 ~~onsite sewer and septic improvements that may be financed through~~
17 ~~the use of contractual assessments.~~

18 ~~(f) Notwithstanding any other provision of this chapter, upon~~
19 ~~the written consent of an authorized public agency official, the~~
20 ~~proposed arrangements for financing the program pertaining to~~
21 ~~the installation of onsite sewer and septic improvements that are~~
22 ~~permanently fixed to real property may authorize the property~~
23 ~~owner to purchase directly the related equipment and materials for~~
24 ~~the installation of onsite sewer and septic improvements and to~~
25 ~~contract directly for the installation of onsite sewer and septic~~
26 ~~improvements that are permanently fixed to the property owner's~~
27 ~~residential, commercial, industrial, agricultural, or other real~~
28 ~~property.~~

29 ~~SEC. 7. If the Commission on State Mandates determines that~~
30 ~~this act contains costs mandated by the state, reimbursement to~~
31 ~~local agencies and school districts for those costs shall be made~~
32 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
33 ~~4 of Title 2 of the Government Code.~~